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Daniel Lecomte

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IP GROUP OF DLA PIPER US LLP  
ONE LIBERTY PLACE  
1650 MARKET ST, SUITE 4900  
PHILADELPHIA, PA 19103

EXAMINER

SAINT CYR, JEAN D

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,963	<b>Applicant(s)</b> LECOMTE ET AL.	
	<b>Examiner</b> JEAN D. SAINT CYR	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 47-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### DETAILED ACTION

1. Claims 47-92, filed 09/09/2005, are presented for examination.

#### Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 41, 48, 91, 92 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 20 and 21 of copending Application No. 10/11091217. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 47, 48, 91 and 92 are obvious variants and encompassed by claims 1, 2, 20 and 21 of the application '217'. For example, the applicant only changed “a digital profile of the recipient” from the co-pending application and replaced it by “a digital profile of an addressee user” in the current application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 47-49, 58-72, 79, 80-83, 87-91 are rejected under 35 U.S.C. 102(b) as being anticipated by LeBourgeois et al(WO 98/42098).

Re claim 47, LeBourgeois et al disclose a process for secured distribution of digital fixed pictures in the form of streams comprising sequences of data each containing a part of information of the picture comprising modifying the original stream by modifying at least a part of the data sequences to produce a stream modified in the same nominal format as the original stream(included but not limited to, see fig.4, step 406, product encryption), transmitting the modified stream, and reconstructing the modified stream with a decoder in addressee equipment(included but not limited to, see fig.4, step 428, transmit broadcast package via internet), wherein the reconstruction is adaptive and progressive as a function of information coming from a digital profile of an addressee user(included but not limited to, see fig.12, step 1204, decrypt merged encrypted product with decrypted product decryption key).

Re claim 48, LeBourgeois et al disclose wherein modification produces a modified main stream and complementary information(included but not limited to, see page 18, product decryption key is referred to herein as being complementary to key

used for product encryption in step 410) permitting reconstruction of the original stream by a decoder, and transmitting the modified stream also comprises transmitting to the addressee equipment a subset of the complementary information, which subset is determined as a function of information coming from a digital profile of the addressee(included but not limited to, page 28, the full encrypted product is sent, along with the payment information and usage parameter according to the user).

Re claim 49, LeBourgeois et al disclose wherein modification produces modified main stream and complementary information permitting reconstruction of the original stream by a decoder, and transmitting the modified stream(included but not limited to, see fig.4, step 428, transmit broadcast package via internet ) also comprises transmitting to the addressee equipment a subset of the complementary information, which subset is determined as a function of information coming from a hardware profile(see page 21, customer's installation ID )of the addressee(included but not limited to, page 28, the full encrypted product is sent, along with the payment information and usage parameter according to the user).

Re claim 58, LeBourgeois et al disclose wherein determination of the subset of the complementary information is based on scalability properties of the original stream( included but not limited to, fig.6, retrieve previously generated installation ID).

Re claim 59, LeBourgeois et al disclose wherein determination of the subset of the complementary information is based on properties of granular scalability of the complementary information(included but not limited to, usage parameters are dependent upon the user payment, page 28, lines 10-24).

Re claim 60, LeBourgeois et al disclose wherein the quantity of information contained in the subset corresponds to a level of scalability determined as a function of a profile of the addressee(usage is determined by payment, page 28, lines 10-25).

Re claim 61, LeBourgeois et al disclose wherein information contained in the subset corresponds to a level of scalability determined as a function of a profile of the addressee(page 28 lines 10-25 The usage is determined by the payment).

Re claim 62, LeBourgeois et al disclose wherein the complementary information comprises at least one digital routine suitable for executing a function(page 28 line 18 The decryption key is needed to decrypt the program).

Re claim 63, LeBourgeois et al disclose wherein functions transmitted to addressees are personalized for each addressee as a function of a session(page 21 lines 22-32 The user's ID and information is personalized).

Re claim 64, LeBourgeois et al disclose wherein the complementary information is encrypted for addressees as a function of the session(included but not limited to, page 28, the full encrypted product is sent, along with the payment information and usage parameter according to the user).

Re claim 65, LeBourgeois et al disclose wherein the complementary information is subdivided into at least two subparts(page 21 lines 22-32 customer's ID, customer's payment information...).

Re claim 66, LeBourgeois et al disclose wherein the subparts are distributed by different media(page 17 lines 18-19 Data can be distributed through any capable network).

Re claim 67, LeBourgeois et al disclose wherein the subparts are distributed by the same medium(page 17 lines 18-19 Data can be distributed through the internet).

Re claim 68, LeBourgeois et al disclose wherein all or part of the complementary information is transmitted on a physical vector(included but not limited to, see fig. 2, the server has a HDD where the data is stored and transmitted )

Re claim 69, LeBourgeois et al disclose wherein the complementary information is transmitted on-line(fig. 4 step 428, transmit broadcast package via internet).

Re claim 70, LeBourgeois et al disclose wherein information contained in the subset is updated as a function of behavior of the addressee during connection to a server or as a function of habits or as a function of data communicated by a third party.

Re claim 71, LeBourgeois et al disclose wherein the quantity of information contained in the subset is updated as a function of behavior of addressee during connection to a server or as a function of habits or as a function of data communicated by a third party(page 21 lines 20-32 The customer's payment information can be updated; that means it can be updated by the billing information system that is third party).

Re claim 72, LeBourgeois et al disclose further comprising analog/ digital converting data in a structured format, which is applied to an analog signal(see fig.1, element 102, product compression & encryption).

Re claim 79, LeBourgeois et al disclose wherein, during reconstruction of the original stream, an indelible and imperceptible trace is inserted into the original stream

which trace carries a non-ambiguous identifier(included but not limited to, see fig.12, step 1204, decrypt merged encrypted product with decrypted product decryption key).

Re claim 80, LeBourgeois et al disclose further comprising inserting an indelible and imperceptible trace into the picture after reconstruction and decoding of the original stream, which trace carries a non-ambiguous identifier(included but not limited to, see fig.12, element 1208, insert installation ID into decrypted product as installation fingerprint).

Re claim 81, LeBourgeois et al disclose wherein the indelible and imperceptible trace can be detected by an software that analyzes reconstituted content(see fig.13, reader system prepares re-validation package; that means an analysis was made by a software).

Re claim 82, LeBourgeois et al disclose wherein the non-ambiguous identifier authenticates a user(see fig.1, fingerprinting insertion).

Re claim 83, LeBourgeois et al disclose wherein the non-ambiguous identifier authenticates equipment on which a reconstruction algorithm of the original stream was executed(see page 21, customer's installation ID).

Re claim 87, LeBourgeois et al disclose further comprising calculating a digital signature from a reconstituted stream, wherein the inserted trace generates a unique and different signature for each reconstituted stream and the signature is stored on a secured server playing disguised as a selected third party(see fig.12, fingerprint; that means a unique signature).

Re claim 88, LeBourgeois et al disclose wherein a stream reconstituted by descrambling has the same visual quality as the original stream and exists in a usable form only if it carries said trace(see fig.13, re-validation package).



Re claim 89, LeBourgeois et al disclose wherein a stream reconstituted by descrambling exists in a usable form only if a digital signature extracted during an authenticity control is identical to a signature stored on a secured server disguised as a selected third party(see fig.13, reader system display error message, request customer to call customer service, That means signature needs to be matched).

Re claim 90, LeBourgeois et al disclose applied to an audiovisual digital stream stemming from a proprietary norm or standard(see fig.3, author identification information).

Re claim 91, LeBourgeois et al disclose a server (see fig.1, package storage) comprising means for broadcasting a modified stream according to claim 47, and a plurality of devices provided with a descrambling circuit(page 28 line 18 The decryption key is needed to decrypt the program; that means there are descrambling circuits), wherein the server also comprises means for recording a digital profile of each addressee(included but not limited to, see fig. 2, the server has a HDD where the data is stored and transmitted ) and means for analyzing the profile of each of the addressees(page 21 lines 22-32 customer's ID, customer's payment information) of a modified stream(usage is determined by payment, page 28, lines 10-25), which means controls the nature of complementary information transmitted to each of the addressees.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 50-57, 73-78, 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeBourgeois et al in view of Chebil et al, US No. 6760481.

Re claim 50, LeBourgeois did not explicitly disclose wherein the original stream is coded in accordance with a process for coding in wavelets.

In an analogous art, Chebil et al disclose wherein the original stream is coded in accordance with a process for coding in wavelets( included but not limited to, see fig.2, wavelet transform; the method uses wavelet transforms, then the quantization is embedded in the encoding, col.2, lines 66-67).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce wavelet coding method into the system of LeBourgeois, as taught by Chebil, for the benefit of making the system safer to unauthorized users.

Re claim 51, LeBourgeois et al did not explicitly disclose wherein the original stream has a property of scalability in resolution.

In an analogous art, Chebil et al disclose wherein the original stream has a property of scalability in resolution(included but not limited to, this means that during encoding and decoding the quality of the image may be gradually enhanced by increasing the number of bits per pixel used in its representation; progressivity in resolution, col.1, lines 55-60).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce property of scalability in resolution into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 52, LeBourgeois et al did not explicitly disclose wherein the original stream has a property of spatial scalability.

In an analogous art, Chebil et al disclose wherein the original stream has a property of spatial scalability(This means that the spatial resolution of the image may be progressively enhanced during encoding and decoding, col.1, lines 60-62).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce property of spatial scalability into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 53, LeBourgeois et al did not explicitly disclose wherein the original stream has a property of qualitative scalability.

In an analogous art, Chebil et al disclose wherein the original stream has a property of qualitative scalability(The solution according to the invention also provides progressivity in quality and resolution, Col.3, lines 43-44).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce a property of qualitative scalability into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 54, LeBourgeois et al did not explicitly disclose wherein the original stream has a property of spectral scalability.

In an analogous art, Chebil et al disclose wherein the original stream has a property of spectral scalability(where the image is represented by pixel values ,e.g. luminance and chrominance, to the spatial frequency domain, col.1, lines 27-29).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce a property of spectral scalability into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 55, LeBourgeois et al disclose wherein the modified main stream is available on the addressee equipment prior to transmitting the complementary information to the addressee equipment(included but not limited to, page 28, lines 10-23, page 17, lines 22-33 the registration package is stored before the product server download package is transmitted).

Re claim 56, LeBourgeois et al disclose wherein part of the modified main stream is available on the addressee equipment prior to transmitting the complementary information to the addressee equipment(included but not limited to, page 28, lines 10-23, page 17, lines 22-33 the registration package is stored before the product server download package is transmitted).

Re claim 57, LeBourgeois et al disclose wherein the modified main stream and the complementary information are transmitted together in real time( included but not limited to, the full encrypted data is sent along with the decrypted data key).

Re claim 73, LeBourgeois et al did not explicitly disclose further comprising Transcoding a digital stream from any format to a format with scalability properties.

In an analogous art, Chebil et al disclose further comprising Transcoding a digital stream from any format to a format with scalability properties(solution according to the invention also provides progressivity in quality and resolution, Col.3, lines 43-44).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce further comprising Transcoding a digital stream from any format to a format with scalability properties into the system of LeBourgeois, as taught by Chebil, for the benefit of making the system more usable.

Re claim 74, LeBourgeois et al did not explicitly disclose wherein fixed pictures constitute a succession of pictures fixed in time.

In an analogous art, Chebil et al disclose wherein fixed pictures constitute a succession of pictures fixed in time (Each block is then coded by dividing it into four quadrants. Each quadrant is coded again by dividing it into 4 quadrants, and so on till no further division is possible, col.2, lines 49-51; that means the fixed represents a succession of block of pictures).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce wherein fixed pictures constitute a succession of pictures fixed in time into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 75, LeBourgeois et al did not explicitly disclose wherein modification of the data sequences is different for at least two pictures of a succession of pictures.

In an analogous art, Chebil et al wherein modification of the data sequences is different for at least two pictures of a succession of pictures (quantization is performed successively and independently for each band of the transformed data, col.2, lines 38-40; that means modification of data is different for every single picture).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce wherein modification of the data sequences is different for at least two pictures of a succession of pictures into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 76, LeBourgeois et al did not explicitly disclose wherein modification of data sequences of a picture of a succession of pictures includes modification of the data sequences of preceding pictures in temporal order of the succession based on properties of spatial and qualitative scalability of transformations in wavelets.

In an analogous art, Chebil et al disclose wherein modification of data sequences of a picture of a succession of pictures includes modification of the data sequences of preceding pictures in temporal order of the succession based on properties of

spatial(This means that the spatial resolution of the image may be progressively enhanced during encoding and decoding, col.1, lines 60-62) and qualitative scalability(The solution according to the invention also provides progressivity in quality and resolution, Col.3, lines 43-44)of transformations in wavelets(see fig.2, element 202, wavelet transform).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce wherein modification of data sequences of a picture of a succession of pictures includes modification of the data sequences of preceding pictures in temporal order of the succession based on properties of spatial and qualitative scalability of transformations into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 77, LeBourgeois et al did not explicitly disclose wherein granular scalability of the complementary information is based on qualitative, spatial and in-resolution scalabilities of streams stemming from a transformation in wavelets of the pictures.

In an analogous art, Chebil et al disclose wherein granular scalability of the complementary information is based on qualitative(solution according to the invention also provides progressivity in quality and resolution, Col.3, lines 43-44), spatial and in-resolution scalabilities(where the image is represented by pixel values ,e.g. luminance and chrominance, to the spatial frequency domain, col.1, lines 27-29) of streams stemming from a transformation in wavelets of the pictures(see fig.2, element 202, wavelet transform).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce wherein granular scalability of the complementary information is based on qualitative, spatial and in-resolution scalabilities of streams stemming from a transformation in wavelets of the pictures into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 78, LeBourgeois et al did not explicitly disclose which is performed without loss of picture quality.

In an analogous art, Chebil et al disclose which is performed without loss of picture quality(during encoding and decoding the quality of the image may be gradually enhanced by increasing the number of bits per pixel used in its representation; progressivity in resolution. This means that the spatial resolution of the image may be progressively enhanced during encoding and decoding; low complexity of implementation; resilience to errors that may occur during transmission, col.1, lines 55-62).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce which is performed without loss of picture quality into the system of LeBourgeois, as taught by Chebil, for the benefit of limiting error in transmitting data.

Re claim 92, wherein a level (quality, quantity, type) of the complementary information is determined for each addressee as a function of the state of a profile at a moment of viewing a main stream(included but not limited to, page 18, free usage parameters; that means type).

6. Claims 84-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeBourgeois et al in view of official notice.

Re claim 84, LeBourgeois et al discloses explicitly disclose wherein the non-ambiguous identifier and reconstitution of the original stream is executed. However, LeBourgeois et al did not explicitly disclose “identifies a session”.

Examiner takes official notice that session identifier is well known in the art of compressing and decompressing image.

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to introduce session identifier into the system of LeBourgeois just to make the system safer.

Re claim 85, LeBourgeois et al disclose wherein a scrambling session and descrambling session are realized under control of a secured server disguised as a selected third party(see fig.13, step 1304, reader system upload re-validation package to license server at URL identified in product broadcast package; that means the server acts like a third party).

Re claim 86, LeBourgeois et al disclose wherein the session is identified by a secured server with a register (see fig.1, product registration) comprising for each session information about session number, identifier of a user or identifier of user equipment(see page 21, customer's installation ID), and identifier of content constituting subject matter of the session and a date-time group.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kleihorst et al (US. Pat. 7020342) disclose scalable coding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcy whose phone number is 571-270-3224. The examiner can normally be reached on M-F 7:30-5:00 PM EST. If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reached on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll free). If you would like assistance from a



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Jean Duclos Saintcyr

04/25/2008

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623